

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA (Philadelphia)**

IN RE:

RAFHIA ROSE FOSTER

Debtor

BK. No. 19-11274-jkf

Chapter No. 13

**HSBC BANK USA, N.A., AS TRUSTEE FOR
THE REGISTERED HOLDERS OF NOMURA
HOME EQUITY LOAN, INC., ASSET-BACKED
CERTIFICATES, SERIES 2006-HE3**

Movant

11 U.S.C. §362

v.

RAFHIA ROSE FOSTER

Respondent

**MOTION OF HSBC BANK USA, N.A., AS TRUSTEE FOR THE REGISTERED
HOLDERS OF NOMURA HOME EQUITY LOAN, INC., ASSET-BACKED
CERTIFICATES, SERIES 2006-HE3 FOR RELIEF FROM AUTOMATIC STAY UNDER
§362**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and leave to foreclose on its mortgage on real property owned by Debtor, RAFHIA ROSE FOSTER AKA RAFHIA R FOSTER.

1. Movant is **HSBC BANK USA, N.A., AS TRUSTEE FOR THE REGISTERED HOLDERS OF NOMURA HOME EQUITY LOAN, INC., ASSET-BACKED CERTIFICATES, SERIES 2006-HE3.**

2. Debtor, RAFHIA ROSE FOSTER AKA RAFHIA R FOSTER is the owner of the premises located at **1226 ATWOOD ROAD, PHILADELPHIA, PA 19151**, hereinafter known as the mortgaged premises.

3. Movant is the holder of a mortgage on the mortgaged premises.

4. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.

5. Movant wishes to institute foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required hereunder.

6. The foreclosure proceedings to be instituted were stayed by the filing of the

instant Chapter 13 Petition.

7. As of August 22, 2019, Debtor has failed to tender post-petition mortgage payments for the months of May 2019 through August 2019. The monthly payment amount for the months of May 2019 through August 2019 is \$641.21, less suspense in the amount of \$6.53, for a total amount due of \$2,558.31. The next payment is due on or before September 1, 2019 in the amount of \$641.21. The notice of post-petition fees has already been filed for the following fees and costs that have been incurred since bankruptcy filing: Bankruptcy Attorney Fee in the amount of \$250.00 and Proof of Claim- Bankruptcy Fee in the amount of \$500.00. Under the terms of the Note and Mortgage, Debtor has a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

8. Movant, **HSBC BANK USA, N.A., AS TRUSTEE FOR THE REGISTERED HOLDERS OF NOMURA HOME EQUITY LOAN, INC., ASSET-BACKED CERTIFICATES, SERIES 2006-HE3**, requests the Court award reimbursement in the amount of \$1,031.00 for the legal fees and costs associated with this Motion.

9. Movant has cause to have the Automatic Stay terminated as to permit Movant to complete foreclosure on its mortgage.

10. Movant specifically requests permission from the Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

11. PHH MORTGAGE CORPORATION services the underlying mortgage loan and note for the property referenced in this Motion for Relief for HSBC BANK USA, N.A., AS TRUSTEE FOR THE REGISTERED HOLDERS OF NOMURA HOME EQUITY LOAN, INC., ASSET-BACKED CERTIFICATES, SERIES 2006-HE3 (the Noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/ or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of HSBC BANK USA,

N.A., AS TRUSTEE FOR THE REGISTERED HOLDERS OF NOMURA HOME EQUITY LOAN, INC., ASSET-BACKED CERTIFICATES, SERIES 2006-HE3 (the Noteholder). HSBC BANK USA, N.A., AS TRUSTEE FOR THE REGISTERED HOLDERS OF NOMURA HOME EQUITY LOAN, INC., ASSET-BACKED CERTIFICATES, SERIES 2006-HE3 (the Noteholder) has the right to foreclose because Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

- a. Modifying the Automatic Stay under Section 362 with respect to **1226 ATWOOD ROAD, PHILADELPHIA, PA 19151** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and
- b. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law; and
- c. Granting any other relief that this Court deems equitable and just.

/s/ Jerome Blank, Esquire
Jerome Blank, Esq., Id. No.49736
Phelan Hallinan Diamond & Jones, LLP
1617 JFK Boulevard, Suite 1400
One Penn Center Plaza
Philadelphia, PA 19103
Phone Number: 215-563-7000 Ext 31625
Fax Number: 215-568-7616
Email: jerome.blank@phelanhallinan.com

September 19, 2019